

REMARKS

The Examiner has withdrawn the restriction requirement of Paper No. 17, and required an election under 35 U.S.C. § 121 of one of the species of the claimed invention for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable:

- (a) antagonists of DNA binding selected from the group consisting of SEQ ID NO: 20, 22, 24-28, 30-32, 34-38;
- (b) antagonists which are peptides that bind to full length STAT selected from the group consisting of SEQ ID NO: 12-16; and
- (c) antagonists which are peptides and bind the SH2 domain of STAT selected from the group consisting of SEQ ID NO: 17-19.

In response, Applicants hereby provisionally elect (a), antagonists of DNA binding selected from the group consisting of SEQ ID NO: 20, 22, 24-28, 30-32, and 34-38. Applicants believe that claims 1, 2, 19, 21, 22, 23, 24, 25, 28, 29, and 30 are readable upon the elected species.

Applicants respectfully traverse the Examiner's requirement for election of species and request that the requirement be withdrawn.

Applicants submit that to search the subject matter of the individual species of (a), (b) and (c) together would not be a serious burden on the Examiner. Applicants assert that, pursuant to MPEP § 803.02, the subject matter of the individual species can be examined together in a single application without imposing a serious burden to the Examiner. The M.P.E.P. § 803 (Eighth Edition, August 2001, revised February 2003) states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Applicants submit therefore, that according to MPEP § 803.02, all pending claims should be examined together, because the search and examination of these claims would not unduly burden the Examiner.

Accordingly, Applicants respectfully request that the requirement for species election be modified such that all pending claims are examined together.

Attorneys for Applicants retain the right to petition from the restriction requirement under 37 U.S.C. § 1.144.


Should the species restriction be maintained, Applicants, upon the allowance of a generic claim, will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim pursuant to 37 C.F.R. § 1.141.

CONCLUSION

Applicants respectfully request that the present remarks be made of record in the instant application. An allowance of the application is earnestly requested. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Respectfully submitted,

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 32,605
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